

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 2/26/2013	(3) CONTACT/PHONE Cody Scheel, Planner I / (805) 781-5157	
(4) SUBJECT Hearing to consider an appeal by Edwin J. Rambuski on behalf of Penni and Greg Tidwell of the Planning Department Hearing Officer's decision to approve a request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. District 3.			
(5) RECOMMENDED ACTION That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving the request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a residential vacation rental at 194 San Luis Street Parkway, Avila Beach, based on the revised findings listed in Exhibit "A" and the revised conditions listed in Exhibit "B".			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 minutes</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(18) SUPERVISOR DISTRICT(S) District 3 -			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Cody Scheel, Planner I

VIA: Nancy Orton, Planning Division Manager

DATE: 2/26/2013

SUBJECT: Hearing to consider an appeal by Edwin J. Rambuski on behalf of Penni and Greg Tidwell of the Planning Department Hearing Officer's decision to approve a request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. District 3

RECOMMENDATION

That the Board of Supervisors adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approving the request by Andrew Graham for a Minor Use Permit/Coastal Development Permit (DRC2012-00012) to establish a residential vacation rental at 194 San Luis Street Parkway, Avila Beach, based on the revised findings listed in Exhibit "A" and the revised conditions listed in Exhibit "B".

DISCUSSION

Background

At the Planning Department Hearing on October 5, 2012, the Hearing Officer reviewed the information, heard public comment and approved a proposal by Andrew Graham to allow an existing residence to be used as a vacation rental. The existing residence is located at 194 San Luis Street in the community of Avila Beach. No expansion of the existing residence or other improvements are proposed.

At the Planning Department Hearing numerous individuals from the neighborhood spoke against the project and additional letters were presented to the Hearing Officer. The comments from residents concentrated on noise, parking, traffic, the potential for overcrowding and the feeling that the use was generally inappropriate for the neighborhood. There was also concern expressed that the County's ability to conduct enforcement of existing vacation rental standards will not be successful. There are currently at least 23 other licensed vacation rentals in the community of Avila Beach. To date there have been no code enforcement issues with the existing vacation rentals in Avila Beach.

The Planning Department Hearing Officer considered the staff recommendation and the comments and letters received and adopted findings and conditions of approval. These are set forth in Exhibits "A" and "B" of the staff report prepared for the Planning Department Hearing (Attachment 8) and on the Notice of Final Action (Attachment 5). The appellants have appealed the decision by the Planning Department Hearing Officer to allow the residence to be used as a residential vacation rental.

Proposed Revised Findings and Conditions

Since the Planning Department Hearing, staff has revised several Findings and Conditions to further clarify and satisfy specific requirements; this is shown in the attached *Exhibit A - Revised Findings and Exhibit B - Revised Conditions*. The changes are as follows: Finding D. explains the “operational standards” requirements for vacation rentals that have been applied to this project. The change in Finding G. elaborates on the fact that the property is not located between the first public road and the shoreline and will not inhibit coastal access. The changes in the conditions are to combine Condition number 4 into Condition 3, dealing with traffic, parking and number of occupants and finally, the addition of a new Condition number 12 that indemnifies the County from future litigation regarding any decision made on this project.

Appeal Issue

The appellants have stated in their appeal that there is “*insufficient evidence to support findings necessary to support granting a Minor Use Permit/Coastal Development Permit*”, and that “*all conditions fail to comply with the LCP.*”

Staff Response

This project came before the Planning Department Hearing Officer because a Minor Use Permit/Coastal Development Permit are required to allow the establishment of a vacation rental in Avila Beach. Approval of a Minor Use Permit is subject to Coastal Zone Land Use Ordinance (CZLUO) Section 23.02.033c(1) which refers to the findings required for approval of a Development Plan listed in 23.02.034c. Section 23.02.034c(4) establishes the findings required for approval. If one or more of these findings cannot be made the project is subject to being denied. In this case, the Planning Department Hearing Officer considered all the information at the hearing as well as the appropriate findings and approved the Minor Use Permit/Coastal Development Permit. The findings, as recommended for your action today, include description of how and why each of the findings can be made for this project. It is staff's recommendation that there is adequate evidence to support the findings as set forth in Exhibit A - Revised Findings.

The operational standards set forth in Coastal Zone Land Use Ordinance Section 23.08.165 have been added as conditions to this project. While those standards only apply to Zoning Clearances issued in Cambria and Cayucos, they can be added to a discretionary permit, in this case a Minor Use Permit. Staff's position is that because these standards set parking requirements, limit the number of occupants and designate a 24-hour property manager contact, potential impacts to surrounding property owners can be avoided. The ordinance provisions, as established for Cambria and Cayucos, were developed to address the concerns raised in the Planning Department Hearing. The proposed conditions of approval have routinely been added to other Minor Use Permit applications requested to establish vacation rentals. In addition, the Hearing Officer added a condition that will limit the number of cars associated with the vacation rental to two cars per rental period and required that the two cars must park inside the existing two-car garage. This condition was added specifically for this project to address concerns heard at the Planning Department Hearing. Lastly, Conditions numbers 9 and 11 discuss revocation of the Minor Use Permit if a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period. Furthermore, if it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked.

Vacation rentals are a visitor serving use and visitor serving uses are encouraged in Avila Beach under the Coastal Plan Policies (Chapter 3, San Luis Bay / South County Planning Areas, Avila Beach, Policy 2).

It is staff's recommendation that the Conditions of Approval comply with the Local Coastal Plan.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel reviewed and approved the Resolution as to form and content.

FINANCIAL CONSIDERATIONS

The required appeal fee was waived because the appeal involves a coastal issue as the issue of appeal and in order to exhaust local appeals the County cannot charge a fee for the processing of an appeal on an action on a coastal development project per the requirements of the Coastal Zone Land Use Ordinance. The cost of processing this appeal comes from the Department's General Fund support.

RESULTS

Denying the appeal and upholding the Planning Department Hearing Officer's decision will result in the establishment of a Residential Vacation Rental at 194 San Luis Street Parkway, Avila Beach. Upholding the appeal would result in a Residential Vacation Rental not being established.

ATTACHMENTS

1. Exhibit "A" - Revised Findings for Approval
2. Exhibit "B" - Revised Conditions of Approval
3. Appeal form
4. Board Resolution affirming the Planning Department Hearing Officer decision (including revised Findings and Conditions)
5. Notice of Final Action with findings and conditions
6. Planning Department Hearing minutes from October 5, 2012
7. Letters from interested parties
8. Planning Department Hearing Staff report from October 5, 2012